



Small Business Assistance & Advisory Service

Fair Work Overview

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The information herein only applies to employers which are covered by the national system.

The information concerns the employer obligations in relation to employee records and pay slips set out in the [Fair Work Regulations 2009 \(Cth\) \(Regs\)](#).

Employee Records

The Regulations require that employee records must be legible, in English and a form that is readily accessible to a Fair Work Ombudsman inspector.

The Regulations also require that employers keep records in respect of each employee regarding the following:

- the name of the employer and the employee and the nature of their employment (e.g. part-time, full-time, permanent, temporary or casual), the date on which the employment commenced and after 1 January 2010, the Australian Business Number of the employer;
- pay, specifically the following:
 - the rate of remuneration paid to the employee;
 - the gross and net amounts paid to the employee;
 - any deductions made from the gross amount paid to the employee;
 - if the employee is a casual or irregular part-time employee who is guaranteed a rate of pay set by reference to a period of time worked, the record must set out the hours worked by the employee;
 - if the employee is entitled to be paid an incentive-based payment, a bonus, a loading, a penalty rate, another monetary allowance or separately identifiable entitlement, the record must set out details of the payment, bonus, loading, rate, allowance or entitlement;
- overtime hours, including the number of overtime hours and when the employee starts and ceases working overtime;
- any arrangement to average the employee's hours of work;
- the amount of leave that an employee takes and the balance remaining, any agreement regarding cashing out of annual leave;
- superannuation contributions;
- individual flexibility arrangements and guarantees of annual earnings; and
- termination of employment (where applicable). In particular, the record must specify whether the employment

- was terminated by consent, notice or summarily and the name of the person who acted to terminate the employer.

There are also obligations on old employers and new employers in transfer of business situations. In particular, the old employer must transfer to the new employer each employee record concerning a transferring employee. If an employee of the old employer becomes an employee of the new employer after the transfer but before the expiry of three months, the new employer must ask the old employer for the employee records and the old employer must comply.

Employers must make copies of employee records available for inspection and copying upon the request of an employee or former employee to whom the record relates. The employer has three (3) business days within which to make the copy available after receiving the request or must post a copy of the record to the employee within 14 days after receiving the request. If the records are not kept at the premises where the employee works or worked, the employer must comply with the request as soon as practicable. Further, the employer must advise the employee where the records are kept, if the employee asks. An employee also has the right to interview the employer or an employer representative about an employee record that has or will be made.

An employer must ensure that a record that the employer is required to keep is not false or misleading to the employer's knowledge.

An employer must correct a record that the employer is required to keep as soon as the employer becomes aware that it contains an error. If an employee record is corrected, the employer must make a notation on the record of the nature of the corrected error and the correction.

An employer must not alter an employee record, other than as permitted under the Regs or allow any other person to do so. If a person knows that an employee record is false or misleading, the person may not make use of that entry.

Pay Slips

Payslips may be in electronic form or kept in hard copy. Each pay slip must specify the following:

- employer's name;
- the employee's name;
- the period to which the pay slip relates;
- the date on which the payment to which the pay slip relates was made;
- the gross amount of the payment;
- the net amount of the payment;
- any amount paid to the employee that is a bonus, loading, allowance, penalty rate, incentive-based payment
- or other separately identifiable entitlement; and
- the Australian Business Number (if any) of the employer.

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If an amount is deducted from the gross amount of the payment, the pay slip must also include the name, or the name and number, of the fund or account into which the deduction was paid.

If the employee is paid at an hourly rate of pay, the pay slip must also include:

- the rate of pay for the employee's ordinary hours (however described);
- the number of hours in that period for which the employee was employed at that rate; and
- the amount of the payment made at that rate.

If the employee is paid at an annual rate of pay, the pay slip must also include the rate as at the latest date to which the payment relates.

If the employer is required to make superannuation contributions for the benefit of the employee, the pay slip must also include:

- the amount of each contribution that the employer made during the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contribution was made; or
- the amounts of contributions that the employer is liable to make in relation to the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contributions will be made.

Fair Work Commission Outcome Examples

[2019] FCCA 1756: The nature of the proceedings were underpayments (such as casual loading, overtime and shift and weekend rates) and failure to issue payslips or keep records. In this case only the director received a penalty of \$39,090.

[2019] FCCA 1425: The nature of the proceedings were underpayments (such as minimum rates, minimum daily engagements and various penalty rates) and failure to keep records which resulted in penalties totalling \$203,472 with \$33,912 of this awarded against the director.